

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AMERICAN MINING WAREHOUSE
LLC

Plaintiff,

v.

ROC DIGITAL MINING I LLC

Defendant.

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CIVIL ACTION NO. _____

**NOTICE OF REMOVAL
PURSUANT TO 28 U.S.C. § 1441(a)**

**DEFENDANT ROC DIGITAL MINING LLC’S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, ROC DIGITAL MINING I LLC (“ROC” or “Defendant”) hereby gives notice of removal of the following lawsuit to the United States District Court for the Southern District of Texas- Houston Division: Cause No. 2022-78832, *American Mining Warehouse, LLC v. ROC Digital Mining LLC*, in the 295th Judicial District Court, Harris County, Texas (the “State Court Lawsuit”). In support of removal, ROC submits the following:

I. STATE COURT LAWSUIT

1. Plaintiff, AMERICAN MINING WAREHOUSE, LLC (“AMW” or “Plaintiff”), filed the State Court Lawsuit on December 5, 2022.¹ In the State Court Lawsuit, AMW pleaded claims for a sworn account, breach of contract, and violations of Texas Business and Commerce Code Section 2.301.²

¹ See Exhibit C

² See Exhibit C at ¶¶ 14-31.

II. PROCEDURAL REQUIREMENTS FOR REMOVAL

2. The State Court Lawsuit is properly removed to this Court because the State Court Lawsuit is pending within this district and division. 28 U.S.C. §§ 124(b)(2) and 1441.

3. Defendant was served with the State Court Lawsuit on December 6, 2022. Removal is timely pursuant to 28 USC § 1446(b)(1).

4. Pursuant to 28 U.S.C. § 1446(a) and LR81, the following items are included with this notice of removal:

Exhibit A	Index of Exhibits
Exhibit B	Docket Sheet
Exhibit C	Unofficial Copy of Plaintiff's Original Petition
Exhibit D	List of Parties and Counsel

5. At the time of removal, there was no Return of Service on file in the State Court Lawsuit. At the time of removal, there were no orders signed by the state judge.

6. This notice of removal is being filed with the District Clerk of Harris County, Texas, and is being served on all known counsel pursuant to 28 U.S.C. § 1446(d).

III. REMOVAL BASED ON DIVERSITY JURISDICTION

7. Removal of the State Court Lawsuit is proper because there is complete diversity of citizenship between AMW and ROC, and the amount in controversy in the lawsuit exceeds \$75,000.00 (exclusive of interest and costs). *See* 28 U.S.C. § 1332(a).

Complete Diversity

8. As stated in the State Court Lawsuit,³ Plaintiff, AMW, is a limited liability company incorporated under the laws of the State of Texas with its principal place of business in the Woodlands, Texas.

9. As stated in the State Court Lawsuit, Defendant, ROC, is a limited liability company incorporated under the laws of Delaware doing business in Texas.

Amount in Controversy

10. If the amount in controversy more likely than not (measured by a preponderance of the evidence) exceeds the jurisdictional minimum, then removal is proper. *See White v. FCI U.S.A., Inc.*, 319 F.3d 672, 675–76 (5th Cir. 2003). The burden of showing the jurisdictional minimum is met if it is apparent from the face of the plaintiff's petition that the amount in controversy exceeds \$75,000.00. *See St. Paul Reins. Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998).

11. In the State Court Lawsuit, AMW seeks monetary relief of approximately \$850,000.00.⁴ Although ROC denies that AMW is entitled to recover any damages, the allegations in AMW's petition establish that the amount in controversy exceeds the \$75,000.00 jurisdictional minimum.

IV. CONCLUSION

There is complete diversity among the parties and the amount in controversy exceeds the jurisdictional minimum. This Court has jurisdiction pursuant to 28 U.S.C. § 1332. All procedural requirements for removal have been met. Accordingly,

³ See Exhibit C at ¶ 2.

⁴ See Exhibit C at ¶¶ 7, 9, 20.

ROC removes this action from the 295th Judicial District Court, Harris County, Texas to the United States District Court for the Southern District of Texas – Houston Division.

Respectfully submitted,

ANDREWS MYERS, P.C.

By: /s/ D. Alan Appling

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**ATTORNEYS FOR DEFENDANT,
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CERTIFICATE OF SERVICE

Pursuant to Texas Rules of Civil Procedure, a true and correct copy of the foregoing has been served upon all parties in accordance with the Rules of Civil Procedure on December 13, 2022.

Via e-service:

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**ATTORNEYS FOR PLAINTIFF,
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/s/ D. Alan Appling
D. ALAN APPLING

